IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 29125 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE MD SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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KANTILAL BACHUBHAI BOKARVADIYA
Versus
THE CHIEF CONTROLLER - REVENUE PRADHIKHARI & ANR

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Appearance :
MR BN PATEL for Petitioner:1
MR APURVA DAVE AGP for Respondent:1

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CORAM : HONOURABLE MR.JUSTICE MD SHAH

Date : 27/12/2007

ORAL JUDGMENT

1. By way of this petition, the present petitioner has challenged the impugned orders passed by Dy.Collector, Stamp Duty Valuation Authority, Amreli

dated 19.7.2003 and the order dated 11.10.2007 passed by the respondent no.1 rejecting the application/appeal of the petitioner on the ground of limitation.

Heard the learned advocate for the petitioner and Mr A.A. Dave, learned AGP for the respondent No.3.

2. It is submitted by the learned advocate for the petitioner that without giving any details and without giving any detailed reason the order was passed by the Dy. Collector, Stamp Duty Valuation Authority, Amreli in a casual manner. It is submitted by him that after taking into consideration certain principles, he has passed the impugned order against the petitioner to pay deficit Stamp Duty of Rs.11,33,950/- and fine of Rs.6,050/- was required to be paid to the authorities. A Notice was accordingly sent to the petitioner. It is submitted by him that the respondent authority has not considered the facts and documentary evidences produced by the petitioner. Therefore, it is prayed that the decision of the respondent authorities is required to be quashed and set aside. The learned advocate has further submitted that

against the said order the petitioner approached the appellate authority to redress his grievance. However, the appellate authority i.e. respondent no.1 on the technical ground of limitation, rejected the appeal/application of the petitioner.

3. In support of his submission, the Learned advocate has placed reliance on the following decisions of this court:

(1) 2003 (1) GLR 454 vol.44 (Pradhyaumanbhai Mohanlal Patel v. State of Gujarat

(2) 2006 (3) GLR 2252 (Mayurkumar J Patel v. Dy.Collector, Stamp Duty Valuation Department, Rajkot)

In the above decisions, it is held by this court that without giving any reasons and without applying mind towards any of the defences raised by the petitioner therein, in printed format the impugned order has been passed wherein some gaps have been filled in and one and two sentences have been added. It is also held by this court that it is the duty vested in the respondent authorities to justify its say for higher market value for the land in question, and thus, the order in question was quashed and set aside by the court in the aforesaid decision.

4. The respondent Dy. Collector has passed final order on 19.7.2003. The Appeal of the petitioner was rejected by the appellate authority on 11.10.2007 on the ground of delay.

5. Considering the facts and circumstances of the case, it is apparent that the impugned order is in printed form and only some gaps have been filled up by the authorities without giving any reasons. This clearly shows total non-application of mind on the part of the respondent- Authorities. Under these circumstances, the impugned orders are required to be quashed and set aside.

6. In the result, the petition is allowed. The impugned orders passed by the respondent authorities are quashed and set aside. Consequently, the matter is remanded to respondent No.2 for taking fresh decision and for passing a speaking order as per the Act, after giving an opportunity of being heard to the petitioner. Respondent No.2 is directed to dispose of the matter accordingly, within a period of three months from the date of receipt of the writ of this order.

7. Rule is made absolute to the aforesaid extent. No order as to costs.

(***M.D.SHAH, J.***)

Amit/-